

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MATTHEW B. CRAMER,

Plaintiff,

v.

A. HUBBARD, et al.,

Defendants.

No. 2: 20-cv-0649 KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. On March 26, 2020, this action was removed from the Sacramento County Superior Court. (ECF No. 1.) Defendants request that the court screen the complaint. (*Id.*) Accordingly, the undersigned herein screens the complaint.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Franklin v. Murphy*, 745 F.2d 1221, 1227-28 (9th Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an

1 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
 2 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
 3 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
 4 Cir. 1989), superseded by statute as stated in Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir.
 5 2000) (“[A] judge may dismiss [in forma pauperis] claims which are based on indisputably
 6 meritless legal theories or whose factual contentions are clearly baseless.”); Franklin, 745 F.2d at
 7 1227.

8 Rule 8(a)(2) of the Federal Rules of Civil Procedure “requires only ‘a short and plain
 9 statement of the claim showing that the pleader is entitled to relief,’ in order to ‘give the
 10 defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” Bell Atlantic
 11 Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).
 12 In order to survive dismissal for failure to state a claim, a complaint must contain more than “a
 13 formulaic recitation of the elements of a cause of action;” it must contain factual allegations
 14 sufficient “to raise a right to relief above the speculative level.” Bell Atlantic, 550 U.S. at 555.
 15 However, “[s]pecific facts are not necessary; the statement [of facts] need only ‘give the
 16 defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” Erickson v.
 17 Pardus, 551 U.S. 89, 93 (2007) (quoting Bell Atlantic, 550 U.S. at 555, citations and internal
 18 quotations marks omitted). In reviewing a complaint under this standard, the court must accept as
 19 true the allegations of the complaint in question, Erickson, 551 U.S. at 93, and construe the
 20 pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236
 21 (1974), overruled on other grounds, Davis v. Scherer, 468 U.S. 183 (1984).

22 Named as defendants are A. Hubbard, D. Hamad, Jeff Lynch and Erika Jubb. (ECF No. 1
 23 at 5.) Plaintiff alleges violations of the Eighth and Fourteenth Amendments. (Id. at 7.) Plaintiff
 24 also alleges that he was subject to retaliation for complaints. (Id.) Plaintiff’s complaint is
 25 prepared on a state law complaint form.

26 After reviewing plaintiff’s complaint, the undersigned cannot determine the grounds of
 27 plaintiff’s claims against the defendants. Plaintiff does not clearly set forth the factual allegations
 28 on which he bases his constitutional claims. In other words, plaintiff does not clearly state how

each defendant allegedly violated his constitutional rights. Plaintiff appears to rely on the exhibits attached to his complaint to state his claims. However, after reviewing the exhibits, the undersigned cannot determine the claims plaintiff is making against each defendant.

The Civil Rights Act under which this action was filed provides as follows:

Every person who, under color of [state law] . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution . . . shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U.S.C. § 1983. The statute requires that there be an actual connection or link between the actions of the defendants and the deprivation alleged to have been suffered by plaintiff. See Monell v. Department of Social Servs., 436 U.S. 658 (1978) (“Congress did not intend § 1983 liability to attach where . . . causation [is] absent.”); Rizzo v. Goode, 423 U.S. 362 (1976) (no affirmative link between the incidents of police misconduct and the adoption of any plan or policy demonstrating their authorization or approval of such misconduct). “A person ‘subjects’ another to the deprivation of a constitutional right, within the meaning of § 1983, if he does an affirmative act, participates in another’s affirmative acts or omits to perform an act which he is legally required to do that causes the deprivation of which complaint is made.” Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

Moreover, supervisory personnel are generally not liable under § 1983 for the actions of their employees under a theory of respondeat superior and, therefore, when a named defendant holds a supervisory position, the causal link between him and the claimed constitutional violation must be specifically alleged. See Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979) (no liability where there is no allegation of personal participation); Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir. 1978) (no liability where there is no evidence of personal participation), cert. denied, 442 U.S. 941 (1979). Vague and conclusory allegations concerning the involvement of official personnel in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982) (complaint devoid of specific factual allegations of personal participation is insufficient).

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1 Plaintiff's complaint is dismissed with leave to amend because plaintiff has not adequately
2 linked the defendants to the alleged deprivations. Plaintiff also failed to allege the factual
3 grounds of his constitutional claims.

4 If plaintiff chooses to amend the complaint, plaintiff is informed that the court cannot
5 refer to a prior pleading in order to make plaintiff's amended complaint complete. Local Rule
6 220 requires that an amended complaint be complete in itself without reference to any prior
7 pleading. This requirement exists because, as a general rule, an amended complaint supersedes
8 the original complaint. See Ramirez v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir.
9 2015) ("an 'amended complaint supersedes the original, the latter being treated thereafter as non-
10 existent.'" (internal citation omitted)). Once plaintiff files an amended complaint, the original
11 pleading no longer serves any function in the case. Therefore, in an amended complaint, as in an
12 original complaint, each claim and the involvement of each defendant must be sufficiently
13 alleged.

14 In accordance with the above, IT IS HEREBY ORDERED that:

15 1. Plaintiff's complaint is dismissed.

16 2. Within **sixty** days from the date of this order, plaintiff shall complete the attached
17 Notice of Amendment and submit the following documents to the court:

18 a. The completed Notice of Amendment; and

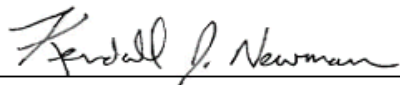
19 b. An original and one copy of the Amended Complaint.

20 Plaintiff's amended complaint shall comply with the requirements of the Civil Rights Act, the
21 Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must
22 also bear the docket number assigned to this case and must be labeled "Amended Complaint."

23 Failure to file an amended complaint in accordance with this order may result in the
24 dismissal of this action.

25 3. The Clerk of the Court is directed to send plaintiff the form for a civil rights complaint
26 by a prisoner pursuant to 42 U.S.C. § 1983.

27 Dated: May 5, 2020
28 Cram649.14


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MATTHEW B. CRAMER,

Plaintiff,

v.

A. HUBBARD, et al.,

Defendants.

No. 2: 20-cv-0649 KJN P

NOTICE OF AMENDMENT

Plaintiff hereby submits the following document in compliance with the court's order
filed_____.

DATED: _____ Amended Complaint

Plaintiff